

Steven Monger, CDCR#E-58948
P.O. Box 4000 (14-T2-Low)
Vacaville, CA 95696-4000

In Pro Per

FILED

AUG 27 2007

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

STEVEN MONGER,

Petitioner,

Case No. C-07-2812 PJH (PR)

V.

D. K. SISTO, Warden,

Respondent. /

PETITIONER'S RESPONSE TO THIS
COURT'S ORDER TO SHOW CAUSE
WHY THIS CASE SHOULD NOT BE
DISMISSED AS SUCCESSIVE

INTRODUCTION

The petitioner asserts and will herein demonstrate to this court that the three petitions which he has filed are not successive petitions. Case numbers 2:05-CV-00067-GEB-EFB, 2:06-CV-01302-GEB-DAD, and C-07-2812 PJH (PR) (Presently before this Court) are all separate and different violations which occurred at different times. Even though all three petitions allege a violation of the plea contract they are substantially different. The petitioner will explain below.

I.

DIFFERENCES BETWEEN THE THREE PETITIONS
AND WHY THEY ARE SUCCESSIVE PETITIONS

The petitioner filed his first petition, case no. 2:05-CV-00067-GEB-EFB, after he had obtained a sworn affidavit from his trial counsel, Mr. Paul Trudell, Alameda County Public Defender, retired, in which he declared that the petitioner had been promised by the Deputy District Attorney, Colton Carmine, that he would serve only between 8-10 years on his 15 to life sentence. See Exhibit "A". Now, while the first petition was being litigated, Colton Carmine, Deputy District Attorney, appeared at the petitioner's parole suitability hearing and argued that the petitioner's crime should be treated as a first degree murder and not the second to which he himself agreed to. Basically, promising one thing in order to get the petitioner to waive all of his rights to a jury trial and plead guilty and then he uses the parole process to obtain the greater conviction for which the petitioner was never accorded any due process whatsoever. Thus, usurping the petitioner's rights to Due Process. See Exhibit "B".

Finally, petitioner then filed the petition at hand after he was denied his right to a timely parole suitability hearing by the Board of Parole Hearings. In the instant petition, petitioner is arguing that failure by the respondents to provide the petitioner with a timely hearing has resulted in a violation of the terms of the plea contract. It was not part of the contract that the respondents would be

able to violate state and federal laws in relation to his sentence. It was not part of the contract that the respondents would be able to deprive the petitioner of his liberty interest in a parole date without ever according him any due process whatsoever.

IN CONCLUSION

As this Court can clearly see, all of the violations are substantially different, occurred at different times, nor could they have been discovered or raised all at once. Petitioner admits that at first glance it appears as if the petitioner has filed successive petitions, but he has not. He is simply attempting to hold the respondents to the terms of the contract. To be quite frank, at this point the respondents are the only ones who has received any benefit from the plea, whereas, the petitioner has not received any.

Therefore, petitioner respectfully request that he is allowed to proceed on the merits of his claims. Petitioner would like to thank this Court for it's time in this matter.

Respectfully Submitted,



Steven Monger

In Pro Per

VERIFICATION

I, Steven Monger, hereby declares the following:

That I am the petitioner in this action and have read the foregoing response to the Judge's Order to Show Cause. The facts stated herein are true and factual of my own knowledge, except as to those matters that are therein stated on information and belief, and as to those matters I believe them to be true and correct copies of the originals. I do declare the foregoing under the penalty of perjury and in accordance with all of the laws of the State of California.

Dated this 18th day of August, 2007 in Vacaville, California.



Steven Monger

In Pro Per

EXHIBIT A

A-F-F-I-D-A-V-I-T

DECLARATION OF PAUL R. TRUDELL IN SUPPORT OF PETITIONERS WRIT OF HABEAS
CORPUS

I, PAUL R. TRUDELL ON INFORMATION AND BELIEF UNDER PENALTY OF PERJURY,
DECLARES AS FOLLOWS;

1. THAT I AM A MEMBER OF THE STATE BAR OF CALIFORNIA # 38876 ADMITTED TO
PRACTICE IN 1966 AND CERTIFIED AS A CRIMINAL LAW SPECIALIST SINCE 1973.
2. THAT I PRACTICED LAW AS AN ASSISTANT PUBLIC DEFENDER FOR THE COUNTY
OF ALAMEDA FROM ADMISSION TO THE BAR THROUGH SEPTEMBER NINTH, 1999
WHEN I RETIRED. DURING MY CAREER I REPRESENTED THOUSANDS OF CLIENTS
UNDER THE IN-DETERMINANT SENTENCING LAW AND LATER UNDER
DETERMINANT SENTENCING LAW. AS A PUBLIC DEFENDER I PERSONALLY
REPRESENTED BETWEEN 75 AND 100 INDIVIDUALS CHARGED WITH HOMICIDE.
SLIGHTLY OVER HALF CONCLUDED WITH THE ENTRY OF A PLEA OF GUILTY.
3. THAT I REPRESENTED STEVEN MONGER THROUGHOUT HIS PROCEEDINGS IN
ALAMEDA COUNTY OVER SEVERAL YEARS WHICH CONCLUDED WITH HIS
SENTENCE TO THE DEPARTMENT OF CORRECTIONS. I STILL FIELD QUESTIONS
BY ANSWERING COLLECT CALLS, AS HE NEGOTIATES HIS WAY THROUGH
PAROLE REVIEW AND HABEAS CORPUS.
4. THAT I HAVE READ THE ATTACHED EXHIBITS AND DECLARATIONS OF MARY
BLAIR AND STEVEN MONGER. I FIND THEM TO BE ACCURATE AS TO THE EVENTS


THAT TRANSPIRED THE DAY OF THE PLEA AGREEMENT IN REGARDS TO WHAT THEY WERE PRIVY. I WOULD ONLY ADD TWO SMALL MODIFICATIONS; FIRST THE EIGHT TO TEN YEARS DID NOT ORIGINATE WITH ME. IT WAS FIRST STATED TO MARY BLAIR BY DEPUTY DISTRICT ATTORNEY MR. COLTON CARMINE. I DID REPEAT IT IN THE PRESENCE OF BOTH MARY BLAIR AND STEVEN MONGER LATER IN TIME BUT BEFORE THE PLEA WAS ENTERED. AND SECOND, MR. COLTON CARMINE AND I BOTH ADDED A CAUTION THAT THE PAROLE REVIEW MUST TAKE PLACE BEFORE A PAROLE DATE WOULD BE SET.

5. THAT IN ESSENCE WE HAD A COMPETENT REASONABLE MINDED CAREER PROSECUTOR WITH OVER 15 YEARS OF EXPERIENCE AND AN EQUALLY SEASONED CAREER PUBLIC DEFENDER USING THE FACILITATION OF THE 20 YEAR OLD DEFENDANT'S MOTHER TO EFFECUATE A PLEA OF GUILTY BEFORE A SECOND GENERATION EXPERIENCED JUDGE TO ACHIEVE JUSTICE AND AVOID A COSTLY PROLONGED TRIAL. EVEN WITH EVERYONE IN THE COURTROOM PLYING THEIR TRADE TO THE BEST OF THEIR ABILITY, WE LED STEVEN MONGER TO 'A BOTTOMLESS PIT' WITHOUT HOPE. THIS IS A SUBSTANTIALLY DIFFERENT POSITION THAN DOING EIGHT TO TEN YEARS.
6. THAT AT THE TIME NO ONE IN THE COURTROOM , COULD HAVE ANTICIPATED THAT THE POLITICAL "ASPIRANTS" THROUGH INACTION OR INTERFERENCE WOULD CAUSE THE APPOINTED "INDEPENDENT" PAROLE BOARD TO CEASE OR DEFER THEIR REVIEW FUNCTION OF ORDERLY REVIEWING AND SETTING PAROLE DATES. THIS HAS RESULTED IN VERY FEW PAROLE DATES BEING SET AND THE FEW THAT WERE SET WERE RECALLED BY THE GOVERNOR.

7. THAT STEVEN MONGER IS ONE OF MANY CAUGHT IN THE PAROLE REVIEW SYSTEM. A SYSTEM THAT HAS DEGENERATED TO THE POINT OF FALLING BELOW MINIMUM STANDARDS FOR PROCEDURAL AND SUBSTANTIVE DUE PROCESS.

WHEREFORE AFFIANT JOINS STEVEN MONGER IN ASKING THE HONORABLE COURT TO GRANT A HEARING ON HIS WRIT OF HABEAS CORPUS. I WILL BE AVAILABLE FOR TESTIMONY AND CROSS EXAMINATION AT THE HEARING. THE COURT SHOULD INTERVENE WITH THIS TIMELY ISSUE AND CRAFT A REMEDY FOR STEVEN MONGER AND THOSE SIMILARLY SITUATED AND SET STANDARDS FOR REVIEW THAT MEET DUE PROCESS. I WOULD ASK THE COURT TO APPOINT AN EXPERIENCED APPELLATE ATTORNEY TO REPRESENT MR. MONGER.

OCTOBER 17, 2002



PAUL R. TRUDELL

11/19/00

Parol Board Members

C/o Steven Monger

To be hand delivered To Counselor & Board Members.

Honorable Board Members.

As Steven Monger's Public Defender and attorney, from the time he was arrested through his formal sentencing I would like to offer for your consideration my comments and observations. I was present at the last Board hearing some years back but was denied the courtesy of attending, or going on his behalf. I am now retired after 33 years with the Alameda County Public Defender office.

Steven was a young immature Black who involved himself in the series of events as an ill conceived part. Although he desired drugs due to a sick involvement with drugs, he and his "network" - would steal money and drugs from above drug dealers, and then destroyed the drugs and gave the money to the "bankers" - a "Robin Hood" concept. The robbery occurred where the victim showing incident of a dealer - Paper & Print Co. Phone booth was shot by the subjects who violently forced at the situation. Steven obviously was guilty

of the act by vicarious liability of a co-conspirator. He never denied this.

His own attitude and outlook is clearly illustrated in one of the counts of robbery where he was holding the gun when an obvious drug dealer ran into a house and he ran in after only to come face to face with the dealer's Mother who was holding a long gun pointed directly at him. There was a momentary standoff as Steven backed out of the house and left. I feel this clearly showed the "Tartness" of his misperceived permit.

I intended the Code for being periods of time, even at the risk of encounter with his being at risk with other drug dealers who he and his partner had received of drugs or ill gotten gain who were also housed in the jail; because I needed time for him to gain maturity before he would be sent to prison.

The case finally plead as a simple and degree case all other matters were dropped. Deputy District Attorney Cotton Carmine & I marked out the details and both met with Steven's Mother explaining to her and Steven that he would do 8-10 years. With that the plea was entered. Mr Carmine was satisfied as was I, making the best of a bad situation.

I have spent long hours with Steven preparing him for the acceptance of his plight and the charge and maturity that must occur before he could be released. On further discussions and letters I have guided him and he has responded. I was concerned with lack of education. He got his GED. I was concerned with his lack of a Trade. He fell into Carpin

and I feel encouraged as I am
also a 45 year Union Carpenter who pulled
myself up to be an attorney. He further responded.
He has married an old friend and it has
produced a stable support, something to look forward to.

As I compare where he is now from
where I met him he clearly is a different
person. A person who has paid the innocent
price for an immature lack of judgment.

I have told Steve that if he is released
I will see to it that he gets on as a Carpenter
with the Union. Work has never been better as
the locals can't fill all of the requests for men.

I have contacted Mr. Carmine asked him
to review his file and to appear at the
Board Hearing if possible. I believe he and
I have no disagreement in what I have presented.

As a Law & Order Career Public Defender
I have taken my job seriously to turn those
clients around that I see the possibility of
rehabilitating, knowing that many are not.

I feel Steve deserves a chance for a
date a first step is the Rehabilitation
process. I am confident he will not
let us down.

Sincerely,

T. J. All.

EXHIBIT B

1

P R O C E E D I N G S

1 **PRESIDING COMMISSIONER LAWIN:** This is a
2 subsequent parole consideration hearing for Steven
3 Monger, CDC E-58948. Mr. Monger was received in CDC
4 on June 25th, 1990 from the County of Alameda in case
5 number ALA94194 for violation of Penal Code section
6 187. That's murder second, count number one. Terms
7 of 15 years to life with a minimum eligible parole
8 date of December 22nd, 1997. Today is August 2nd,
9 2000. We're located at Folsom State Prison. The
10 time is approximately 9:54 a.m. As you know,
11 Mr. Monger, these hearings are tape recorded. These
12 are the microphones in front of you. So for voice
13 identification purposes for the transcription we
14 will go around the room, each of us will state our
15 first and last name, spelling our last name. And
16 when we come to you, if you would also add your CDC
17 number. I'll begin and go to my left. Sharon
18 Lawin, L-A-W-I-N, Commissioner.

19 **DEPUTY COMMISSIONER SPEED:** Deputy Commissioner
20 Marvin Speed, S-P-E-E-D.

21 **DEPUTY DISTRICT ATTORNEY CARMINE:** Deputy
22 District Attorney Colton Carmine, C-A-R-M-I-N-E.

23 **ATTORNEY SKIPPER-DOTTA:** Rhonda Skipper-Dotta,
24 S-K-I-P-P-E-R hyphen D-O-T-T-A, legal counsel for
25 Steven Monger.

26 **INMATE MONGER:** Steven Monger, M-O-N-G-E-R, CDC
27

1 PRESIDING COMMISSIONER LAWIN: Thank you.

2 DEPUTY DISTRICT ATTORNEY CARMINE: Okay. No,
3 that's all I have.

4 PRESIDING COMMISSIONER LAWIN: Thank you.

5 Ms. Skipper-Dotta, any questions?

6 ATTORNEY SKIPPER-DOTTA: No, no questions.

7 PRESIDING COMMISSIONER LAWIN: Mr. Carmine,
8 closing.

9 DEPUTY DISTRICT ATTORNEY CARMINE: Yeah. Just a
10 few comments and, again, I'm impressed with how
11 familiar the Board is with the information in the
12 reports. And so there's not a whole lot of things I
13 can add. I did write a letter a long time ago in
14 this case setting forth my summary of it because
15 this case pled in the trial court. It was prepared
16 to go to trial on all the counts he was charged
17 with. And for the position of stress and not
18 weakness, we offered Mr. Monger a plea bargain to a
19 charge of second degree murder when in fact -- and
20 then that's what he admitted. Due to his age and
21 the fact that it was going to affect the outcome of
22 his co-participant and codefendant, what kind of
23 disposition he was going to make in his case. But
24 as the Board is aware, any killing whether
25 intentional or unintentional, or even accident that
26 occurs in the commission of robbery is first degree
27 murder. That's the law. This was an interesting

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ALAMEDA
BEFORE HONORABLE WILLIAM R. MCGUINNESS, JUDGE
DEPARTMENT NO. 6

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THE PEOPLE OF THE STATE OF CALIFORNIA)
PLAINTIFF

VS.

NO. 94194
CHANGE OF
PLEA

STEVEN MATTHEW MONGER,
DEFENDANT

FILED
ALAMEDA COUNTY

MAR 22 1990

RENE C. DAVIDSON, County Clerk
By [Signature]

COURTHOUSE, OAKLAND, ALAMEDA COUNTY, CALIFORNIA

REPORTER'S TRANSCRIPT OF PROCEEDINGS

WEDNESDAY, MARCH 21, 1990 -- 10:00 A.M.

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A P P E A R A N C E S

FOR THE PEOPLE: JOHN J. MEEHAN, DISTRICT ATTORNEY
BY: COLTON CARMINE, DEPUTY

FOR THE DEFENDANT: JAY B. GASKILL, PUBLIC DEFENDER
BY: PAUL TRUDELL, ASSISTANT

P R O C E E D I N G S

WEDNESDAY, MARCH 21, 1990 -- 10:00 A.M.

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THE COURT: THE COURT WILL CALL THE
MATTER OF THE PEOPLE OF THE STATE OF CALIFORNIA VS.
STEVEN MATTHEW MONGER.

THIS MATTER WAS SENT FORWARD PREVIOUSLY FROM
DEPARTMENT 1 TO THIS DEPARTMENT FOR PURPOSES OF JURY
TRIAL AND THE MATTER HAS BEEN TRAILING IN THIS
DEPARTMENT OTHER MATTERS THAT HAVE PRECEDED IT FOR
TRIAL.

THIS DEPARTMENT NOW IS AVAILABLE FOR PURPOSES
OF A HEARING IN THIS MATTER. HOWEVER, THE COURT HAS
BEEN ADVISED BY COUNSEL THAT THERE IS AN ANTICIPATED
OR PROPOSED DISPOSITION IN THIS MATTER AND AT THIS
TIME WHAT I WOULD REQUEST IN A MOMENT MR. CARMINE --
AND THE RECORD WILL REFLECT THAT MR. MONGER IS
HERE. HE IS REPRESENTED BY HIS ATTORNEY MR. TRUDELL
AND MR. CARMINE IS HERE ON BEHALF OF THE PEOPLE.

AND MR. MONGER, I WOULD SAY TO YOU, SIR, WHAT
I INTEND TO DO IS AS FOLLOWS. I'M GOING TO ASK
MR. CARMINE TO STATE HIS UNDERSTANDING OF WHAT THE
PROPOSED DISPOSITION OR AGREEMENT IS IN YOUR CASE
AND MR. TRUDELL WILL BE LISTENING CAREFULLY AND I'M
GOING TO ASK YOU TO LISTEN CAREFULLY, BECAUSE WHEN
MR. CARMINE IS THROUGH I'LL ASK YOU IF WHAT HE
STATED HERE ON THE RECORD AS HIS UNDERSTANDING IS
ALSO YOUR UNDERSTANDING OF WHAT THE UNDERSTANDING

1 IS.

2 ALL RIGHT. WITH THAT, MR. CARMINE, WOULD YOU
3 STATE PLEASE THE COMPLETE TERMS OF THE AGREEMENT AS
4 YOU UNDERSTAND IT.

5 MR. CARMINE: YES, YOUR HONOR.

6 IT IS MY UNDERSTANDING THAT MR. MONGER WILL
7 ENTER A PLEA TO THE FIRST COUNT OF "NO CONTEST",
8 THAT THE DEGREE OF MURDER WILL BE STIPULATED --
9 WOULD BE MURDER OF THE SECOND DEGREE, AND THAT THE
10 BALANCE OF THE INFORMATION WOULD BE DISMISSED.

11 MR. TRUDELL: THAT IS MY
12 UNDERSTANDING.

13 THE COURT: AND THAT THE -- IF SUCH
14 A PLEA WERE ACCEPTED BY THE COURT, THAT THE SENTENCE
15 IN THE MATTER WILL BE A TERM IN THE STATE PRISON FOR
16 A TERMS OF 15 YEARS TO LIFE; IS THAT CORRECT?

17 MR. CARMINE: YES, YOUR HONOR.

18 THE COURT: AND MR. TRUDELL?

19 MR. TRUDELL: THAT IS MY
20 UNDERSTANDING. THE ONLY REQUEST I HAVE IS THAT THE
21 MATTER GO OVER EIGHT WEEKS FOR A REPORT AND
22 SENTENCE.

23 THE COURT: ALL RIGHT. AND
24 MR. CARMINE, ANY OBJECTION TO THAT?

25 MR. CARMINE: NO, YOUR HONOR.

26 THE COURT: ALL RIGHT.

27 MR. MONGER, AS WE HAVE INDICATED THEN, IS
28 WHAT MR. CARMINE STATED, IS THAT YOUR UNDERSTANDING

1 AS WELL, SIR?

2 THE DEFENDANT: YES.

3 THE COURT: AND UNDERSTAND IF I
4 ACCEPT YOUR PLEA OF NO CONTEST ON THE TERMS AND
5 CONDITIONS STATED THAT I WILL MAKE A FINDING OF
6 GUILTY IN THIS MATTER; DO YOU UNDERSTAND THAT?

7 THE DEFENDANT: YES.

8 THE COURT: AND UNDERSTAND FURTHER
9 IF I ACCEPT THIS PLEA THAT THE TERM FOR THIS OFFENSE
10 IS A TERM IN STATE PRISON FOR A TERM OF 15 YEARS TO
11 LIFE; DO YOU UNDERSTAND THAT, SIR?

12 THE DEFENDANT: YES.

13 THE COURT: AND IN TERMS OF THE
14 MATTER OF PAROLE, WITH REGARD TO THE ISSUE OF
15 PAROLE, IT WOULD BE MY DUTY TO ADVISE YOU THAT AS
16 THE EXPIRATION OF YOUR PERIOD OF INCARCERATION YOU
17 COULD BE PLACED ON PAROLE FOR THE REMAINDER OF YOUR
18 LIFE OR A LESSER PERIOD, DEPENDENT AND TO BE
19 DETERMINED BY THE BOARD OF PRISON TERMS AND PAROLE.
20 IN THE EVENT OF YOUR RETENTION ON PAROLE, IF YOU
21 VIOLATE ANY PROVISION OF YOUR PAROLE GRANT, YOUR
22 PAROLE COULD BE REVOKED AND YOU WOULD BE
23 INCARCERATED FOR AN ADDITIONAL TERM IN STATE PRISON,
24 SUCH TERM TO BE DETERMINED BY THE BOARD OF PRISONS
25 TERMS AND PAROLE, DO YOU UNDERSTAND THAT?

26 THE DEFENDANT: YES.

27 THE COURT: AND I'M REQUIRED BY LAW
28 PURSUANT TO GOVERNMENT CODE SECTION 13967 TO IMPOSE

1 A RESTITUTION FINE UPON YOU FROM THE AMOUNT OF \$100
2 TO \$10,000. AND COUNSEL, WITH REGARD TO THIS MATTER,
3 IT WOULD BE MY INTENTION TO IMPOSE A FINE OF IN THE
4 AMOUNT OF \$100.

5 MR. CARMINE, IS THERE ANY OBJECTION TO THAT?

6 MR. CARMINE: NO OBJECTION.

7 THE COURT: I WOULD TELL YOU ALSO,
8 SIR, THAT IF AT A LATER TIME IF I WERE TO WITHDRAW
9 MY APPROVAL OF THIS PLEA, THEN YOU WOULD BE
10 PERMITTED TO WITHDRAW YOUR PLEA; UNDERSTAND THAT?

11 THE DEFENDANT: YES.

12 THE COURT: ALL RIGHT. MR. TRUDELL,
13 HAVE YOU FILLED OUT THE WAIVER ON PLEA OF GUILTY OR
14 NO CONTEST FORM?

15 MR. TRUDELL: NO, I HAVEN'T.

16 THE COURT: MS. CLERK, IF YOU WOULD
17 PROVIDE HIM WITH THAT PLEASE. WE'LL BE IN RECESS
18 FOR JUST A FEW MINUTES AND GIVE YOU AN OPPORTUNITY
19 TO REVIEW THAT FORM.

20 (RECESS TAKEN.)

21 THE COURT: VERY WELL. THE COURT
22 HAS BEEN HANDED A FORM DENOMINATED WAIVER ON PLEA OF
23 GUILTY BEARING THE ACTION NUMBER 94194 AND WITH
24 RESPECT TO THIS FORM NOW, MR. MONGER, HAVE YOU
25 DISCUSSED THE CONTENTS OF THIS FORM WITH MR. TRUDELL
26 AND HAS HE EXPLAINED IT TO YOU, SIR?

27 THE DEFENDANT: YES, I HAVE.

28 THE COURT: IN TERMS OF EVERYTHING

1 SET FORTH ON THIS FORM, ON BOTH SIDES OF THE FORM,
2 DO YOU UNDERSTAND EVERYTHING CONTAINED THERE?

3 THE DEFENDANT: YES, I DO.

4 THE COURT: ALL RIGHT. AND WITH
5 REGARD TO THE RIGHTS THAT ARE SET FORTH AND ON THESE
6 TWO PAGES, ARE YOU WAIVING THESE RIGHTS
7 VOLUNTARILY?

8 THE DEFENDANT: YES.

9 THE COURT: AND IN TERMS OF THE
10 INITIALS IN THE BOXES ON THE FORM, ARE THOSE YOUR
11 INITIALS?

12 THE DEFENDANT: YES.

13 THE COURT: AND DID YOU SIGN THIS
14 FORM AT THE BOTTOM?

15 THE DEFENDANT: YES, I DID.

16 THE COURT: AND MR. TRUDELL, THIS IS
17 YOUR SIGNATURE AS WELL, SIR?

18 MR. TRUDELL: YES.

19 THE COURT: ALL RIGHT. WITH REGARD
20 TO THIS MATTER THEN, MR. MONGER, I WANT TO ADVISE
21 YOU THAT YOU HAVE THE FOLLOWING CONSTITUTIONAL
22 RIGHTS BUT YOU GIVE UP THESE RIGHTS BY ENTERING A
23 PLEA OF NO CONTEST.

24 YOU HAVE A RIGHT TO A SPEEDY AND PUBLIC TRIAL
25 BY JURY, AND YOU HAVE A RIGHT TO THE ASSISTANCE OF
26 AN ATTORNEY AT ALL STAGES OF THE PROCEEDINGS.

27 YOU HAVE THE RIGHT TO CONFRONT AND
28 CROSS-EXAMINE WITNESSES THAT MIGHT TESTIFY AGAINST

1 YOU AND YOU HAVE THE RIGHT TO USE THE SUBPOENA POWER
2 OF THIS COURT TO BRING IN WITNESSES AND EVIDENCE BY
3 WAY OF DEFENSE IF YOU CHOOSE TO DO SO.

4 YOU ALSO YOU HAVE THE PRIVILEGE OF
5 SELF-INCRIMINATION AND CANNOT BE FORCED TO BE A
6 WITNESS AGAINST YOURSELF.

7 DO YOU UNDERSTAND YOU HAVE REACH OF THESE
8 RIGHTS AND IN ENTERING THIS PLEA YOU GIVE UP EACH OF
9 THESE RIGHTS?

10 THE DEFENDANT: YES, I DO.

11 THE COURT: AND FURTHER I WOULD TELL
12 YOU IF YOU ENTER A PLEA OF NO CONTEST TO THIS CHARGE
13 AND IF THE COURT MAKES A FINDING OF GUILTY, YOU WILL
14 HAVE BEEN FOUND GUILTY OF WHAT THE STATE CALLS A
15 SERIOUS FELONY, AND IF IN THE FUTURE YOU SHOULD BE
16 CONVICTED OF ANOTHER SERIOUS FELONY, AS A RESULT OF
17 YOUR PLEA TODAY YOUR NEW SENTENCE IN THAT MATTER IF
18 SUCH WERE TO OCCUR WOULD BE INCREASED BY FIVE YEARS.

19 DO YOU UNDERSTAND THAT, SIR?

20 THE DEFENDANT: YES, YES, I DO.

21 THE COURT: NOW SIR, HAS ANYONE MADE
22 ANY PROMISES TO YOU TO CAUSE YOU TO ENTER YOUR PLEA
23 OF NO CONTEST EXCEPT WHAT HAS BEEN SAID HERE IN OPEN
24 COURT ON THIS RECORD?

25 THE DEFENDANT: NO.

26 THE COURT: HAS ANYONE THREATENED
27 YOU TO CAUSE YOU TO PLEAD NO CONTEST?

28 THE DEFENDANT: NO.

1 THE COURT: ARE YOU PLEADING NO
2 CONTEST FREELY AND VOLUNTARILY?

3 THE DEFENDANT: YES.

4 THE COURT: ALL RIGHT, SIR.

5 MS. CLERK, IF YOU WOULD ARRAIGN THE DEFENDANT
6 AS TO HIS PLEA.

7 THE CLERK: STEVEN MATTHEW MONGER,
8 IS THAT YOUR TRUE NAME?

9 THE DEFENDANT: YES.

10 THE COURT: TO THE CRIME OF A
11 FELONY, TO WIT: MURDER, A VIOLATION OF SECTION 187
12 OF THE PENAL CODE OF CALIFORNIA, AS CHARGED IN
13 COUNT 1 OF THE INFORMATION, STIPULATED IN THE SECOND
14 DEGREE, HOW DO YOU PLEAD, GUILTY OR NOT GUILTY?

15 THE DEFENDANT: NO CONTEST.

16 THE CLERK: NO CONTEST.

17 THE COURT: VERY WELL.

18 DO BOTH PARTIES STIPULATE THERE IS A FACTUAL
19 BASIS FOR THIS PLEA?

20 MR. CARMINE: YES, YOUR HONOR.

21 THE COURT: AND MR. TRUDELL?

22 MR. TRUDELL: YES.

23 THE COURT: VERY WELL.

24 THE COURT WILL FIND THAT THERE IS A FACTUAL
25 BASIS FOR THIS PLEA, AND FURTHER THE COURT WILL MAKE
26 A FINDING OF GUILTY IN THIS MATTER AND THE COURT
27 WILL FIND THAT THE DEFENDANT HAS BEEN FULLY INFORMED
28 OF AND UNDERSTANDS HIS CONSTITUTIONAL RIGHTS AND

1 THAT HE HAS KNOWINGLY, INTELLIGENT, FREELY AND
2 VOLUNTARILY WAIVED THOSE RIGHTS.

3 ALL RIGHT, MR. CARMINE, DO YOU HAVE A MOTION
4 WITH REGARD TO THE REMAINING CHARGES AND ALLEGATIONS
5 IN THIS INFORMATION?

6 MR. CARMINE: YES, YOUR HONOR. I
7 WOULD ASK THAT THOSE BE DISMISSED IN VIEW OF THE
8 PLEA.

9 THE COURT: ALL RIGHT, SIR. THAT
10 MOTION THEN AS TO THE REMAINING COUNTS AND
11 ALLEGATIONS IN THE INFORMATION WILL BE GRANTED.

12 THIS MATTER WILL BE REFERRED TO THE PROBATION
13 DEPARTMENT FOR REPORT AND SENTENCE.

14 MR. MONGER, YOU HAVE A RIGHT TO BE SENTENCED
15 WITHIN 28 DAYS. DO YOU WISH TO WAIVE THAT RIGHT,
16 SIR, SO THE COURT CAN SET THE MATTER BEYOND 28
17 DAYS?

18 THE DEFENDANT: YES, I DO.

19 THE COURT: IS THERE A REQUESTED
20 DATED IN THIS MATTER -- MS. CLERK.

21 THE CLERK: FOR NINE WEEKS IT WOULD
22 BE THURSDAY, MAY 24, 9:00 A.M. IN DEPARTMENT 6.

23 THE COURT: THIS MATTER WILL BE
24 CONTINUED TO MAY 24, 9:00 A.M. THIS DEPARTMENT FOR
25 REPORT AND SENTENCE.

26 ALL RIGHT. ANYTHING FURTHER, MR. CARMINE?

27 MR. CARMINE: WAS HE FOUND -- DID
28 YOU FIND HIM GUILTY ON THE RECORD?

1 THE COURT: YES, SIR.

2 MR. TRUDELL, ANYTHING FURTHER?

3 MR. TRUDELL: NOTHING FURTHER.

4 THE COURT: ALL RIGHT. THANK YOU ALL
5 VERY MUCH.

6 MR. CARMINE: THANK YOU YOUR HONOR.

7 (WHEREUPON, THE PROCEEDINGS WERE CONCLUDED.)

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1 STATE OF CALIFORNIA)
2 COUNTY OF ALAMEDA) SS.

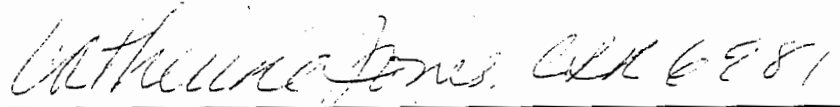
3
4
5 I, CATHERINE JONES, CERTIFIED SHORTHAND
6 REPORTER, DO HEREBY CERTIFY THAT I AM AN OFFICIAL
7 REPORTER OF THE SUPERIOR COURT OF THE STATE OF
8 CALIFORNIA, IN AND FOR THE COUNTY OF ALAMEDA;

9 THAT AS SUCH I REPORTED THE PROCEEDINGS HAD IN
10 THE ABOVE-ENTITLED MATTER AT THE TIME AND PLACE SET
11 FORTH HEREIN;

12 THAT MY STENOGRAPHIC NOTES WERE THEREAFTER
13 TRANSCRIBED BY COMPUTER-AIDED TRANSCRIPTION UNDER MY
14 DIRECTION;

15 AND THAT THE FOREGOING PAGES NUMBERED 1 THROUGH
16 9 CONSTITUTE A FULL, TRUE AND CORRECT TRANSCRIPTION
17 OF MY SAID NOTES.

18 DATED THIS TWENTY-FIRST DAY OF MARCH, 1990.
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23 CATHERINE JONES, CSR #6981
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